

LEGISLATIVE
RESEARCH COMMISSION

INTERIM REPORT
TO THE

1979 P+Z

GENERAL ASSEMBLY OF NORTH CAROLINA
SECOND SESSION, 1980



AGING

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TO THE

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STATE OF NORTH CAROLINA
LEGISLATIVE RESEARCH COMMISSION
STATE LEGISLATIVE BUILDING
RALEIGH 27611

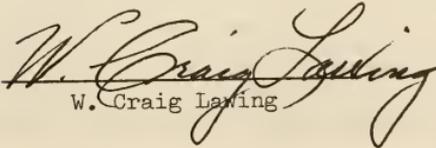


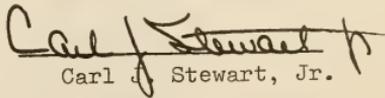
TO THE MEMBERS OF THE 1979 GENERAL ASSEMBLY:

The Legislative Research Commission herewith reports to the 1979 General Assembly, Second Session 1980, of North Carolina on the matter of Aging in North Carolina. The report is made pursuant to House Joint Resolution 68 (1979 Session Laws, Resolution 62) of the 1979 General Assembly and at the direction of the Cochairmen of the Legislative Research Commission under the authority of G.S. 120-30-17(6).

This report was prepared by the Legislative Research Commission Committee on Aging in North Carolina and it is transmitted by the Legislative Research Commission to the members of the 1979 General Assembly, Second Session 1980, for their consideration.

Respectfully submitted,


W. Craig Lawing


Carl J. Stewart, Jr.

Cochairmen

LEGISLATIVE RESEARCH COMMISSION

CH. 120 GENERAL ASSEMBLY

ARTICLE 6B.

Legislative Research Commission.

§ 120-30.10. Creation; appointment of members; members ex officio. — (a) There is hereby created a Legislative Research Commission to consist of five Senators to be appointed by the President pro tempore of the Senate and five Representatives to be appointed by the Speaker of the House. The President pro tempore of the Senate and the Speaker of the House shall be ex officio members of the Legislative Research Commission. Provided, that when the President of the Senate has been elected by the Senate from its own membership, then the President of the Senate shall make the appointments of the Senate members of the Legislative Research Commission, shall serve ex officio as a member of the Commission and shall perform the duties otherwise vested in the President pro tempore by G.S. 120-30.13 and 120-30.14.

(b) The cochairmen of the Legislative Research Commission may appoint additional members of the General Assembly to work with the regular members of the Research Commission on study committees. The terms of the additional study committee members shall be limited by the same provisions as apply to regular commission members, and they may be further limited by the appointing authorities.

(c) The cochairmen of the Legislative Research Commission may appoint persons who are not members of the General Assembly to advisory subcommittees. The terms of advisory subcommittee members shall be limited by the same provisions as apply to regular Commission members, and they may be further limited by the appointing authorities. (1965, c. 1045, s. 1; 1975, c. 692, s. 1.)

* * * * *

§ 120-30.17. Powers and duties. — The Legislative Research Commission has the following powers and duties:

- (1) Pursuant to the direction of the General Assembly or either house thereof, or of the chairmen, to make or cause to be made such studies of and investigations into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner.
- (2) To report to the General Assembly the results of the studies made. The reports may be accompanied by the recommendations of the Commission and bills suggested to effectuate the recommendations.
- (3), (4) Repealed by Session Laws 1969, c. 1184, s. 8. (1965, c. 1045, s. 8; 1969, c. 1184, s. 8.)
- (5) To review the rules of all administrative agencies pursuant to Article 6C of this Chapter to determine whether or not the agencies acted within their statutory authority in promulgating the rules.
- (6) To meet during the regular session of the General Assembly only for the purposes of reviewing rules pursuant to G.S. 120-30.30 or holding public hearings pursuant to G.S. 120-30.35. (1965, c. 1045, s. 8; 1969, c. 1184, s. 8; 1977, c. 915, s. 3.)

MEMBERSHIP

House Speaker Carl J. Stewart, Jr., Chairman	Senate President Pro Tempore W. Craig Lawing, Chairman
Representative Chris S. Barker, Jr.	Senator Henson P. Barnes
Representative John R. Gamble, Jr.	Senator Melvin R. Daniels, Jr.
Representative Parks Helms	Senator Carolyn Mathis
Representative John J. Hunt	Senator R. C. Soles, Jr.
Representative Lura S. Tally	Senator Charles E. Vickery

INTRODUCTION

The Legislative Research Commission, authorized by Article 6B of Chapter 120 of the General Statutes (G.S. 120-30.17(6)), is a general purpose study group whose duties are that of making or causing to be made, upon the direction of the General Assembly, "such studies of and investigations into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner."

By House Joint Resolution 68 (1979 Session Laws, Resolution 62) the Legislative Research Commission was authorized to continue its study of the problems of aging. (See Appendix A.) In order to accomplish these tasks, Representative John R. Gamble, Jr., as a member of the Legislative Research Commission was appointed to coordinate and oversee the Study on the Problems of Aging. Senator Rachel G. Gray and Representative Ernest B. Messer were appointed to Co-Chair the Committee. The other members appointed were Senators Ollie Harris, Ralph H. Scott, James D. Speed and Robert W. Wynne; Representatives Gus N. Economos and Edd Nye; and public members Messrs. Claude Farrell and Clyde Gordon. The Legislative Services Office provided staff assistance to the Committee for this study.

The minutes of the Committee meetings reflect the statements and discussions of each meeting. All of this information is included in the Committee files.

BACKGROUND

Advancements in gerontological knowledge and an increase in the population 60 years and older have necessitated a review of services to the elderly. Over the last few years problems of our growing older population have become a major societal concern. In 1975, there were 22.3 million Americans over age 60 and the average life expectancy of a white male was 71 years. By 2000, the Census Bureau predicts there will be 29 million elderly Americans.

This rapidly growing segment of the population should be provided with a range of service alternatives to meet varied needs to assure a high quality of life. That services to older adults must be reassessed is clearly evident from the population data on current and projected numbers of citizens sixty years of age and over in each county of the State. With older adults increasing in substantial numbers, the provision of appropriate services in adequate amounts becomes critical. There is a need for an effective and efficient continuum of services. Because the situations of older persons

change, they should be able to enter the continuum of services wherever necessary for whatever service or services are needed for whatever period of time.

Many persons have begun to consider the Legislative Research Commission's Committee on the Problems of Aging as a major forum for those concerned with aging in North Carolina. This Committee has been devoted entirely to aging, its problems, goals and aspirations. This process began in 1977 with the establishment of a House Committee on Aging. Out of this came the Legislative Research Commission's Committee on the Problems of Aging which began to meet between the two sessions of the 1977 General Assembly and will continue to the 1981 session of the General Assembly.

Therefore much initial work and background has already been reported. For those interested this information can be found in The Legislative Research Commission Report to the 1977 General Assembly Second Session 1978 on Aging and The Legislative Research Commission Report to the 1979 General Assembly on Aging. This report will detail only the information gathered by the Committee since the 1979 report.

PROCEEDINGS

The Legislative Research Commission's Committee on the Problems

of Aging held four meetings during the course of its deliberations and as in the past many groups and persons were heard. (See Appendix B). In planning the topics for discussion the Committee kept in mind that a report was to be made to the Second Session of the 1979 General Assembly which would necessitate only addressing those problems which needed immediate attention. Therefore, the Committee, in the main, concentrated on a review of those programs which had already been initiated by past sessions of the General Assembly to see if these programs were beginning to have the desired impact. Also some time was spent in a review of health programs for the elderly.

Those items that were monitored by the Committee included:

1. The effect of the energy crisis on the elderly and federal and state programs initiated to combat the problem. (See Appendix C and D)
2. A review of the progress of the In-Home Services to the aged and reports concerning the appropriation of funds by the General Assembly.
3. An update on the Nursing Home Advisory Committees which were originally established in 1977 by the Nursing Home Patients' Bill of Rights.

4. A review of the effect of a bill making tuition free to senior citizens both in the Community College System and in the University of North Carolina on a "space available" basis.
5. A report on H. B. 66 of the 1979 Session which would allow County Departments of Social Services to establish a program and to collect fees for people ineligible under state and federal programs.

Besides the above prominent issues, the Committee began to collect testimony on health care for the elderly. This has become an issue because it consumes a large share of the total health care expenditures. For an increasing number of older Americans it is an increasingly greater concern because the majority of them cannot afford care that is adequate to meet their needs.

Despite some improvements, many needs still have not been met by the medical and social service fields. Health needs of the elderly are greater than any other population group, but they are least served. Services must be directed specifically towards the aging until they achieve some equity with respect to need. Increased allocation of personnel and finances will be required to achieve this.

Current health care for the elderly often requires a long

wait or is inaccessible. The need for prompt medical treatment is recognized as being essential, but the system does not facilitate it. It is especially difficult to obtain services in rural areas; and in both rural and urban areas, insufficient services often lead to unnecessary institutionalization.

Specifically the Committee during the interim heard testimony and considered problems in the following areas:

1. Mental health for the elderly.
2. Foot care for the elderly.
3. Reports of various health providers such as nursing and public health concerning their role in gerontology.
4. Reports by the University of North Carolina School of Medicine on its new geriatric training for physicians.

FINDINGS

The Committee, after a review of the subject, suggests that no specific legislation at present is needed in the following areas and reports to the General Assembly:

1. The Committee expresses disappointment that the county departments of social services have not taken advantage of H. B. 66 (1979 Session) which would allow the departments to establish programs and collect fees for people ineligible

under state and federal laws and suggests that both county and state social services take fuller opportunities of the possibilities in this legislation. (For a summary of a survey of counties done on this subject see Appendix E)

It is suspected that one of the reasons for lack of implementation has been that the public has not been made aware of the services provided by the bill. In any case, if implemented, it will help people who have never been a burden on the State; they have paid taxes all of their life, and they come to their senior years able to pay for a service but can not get it when others not able to pay can get the service.

2. The Nursing Home Advisory Committees are making substantial progress in performing their responsibilities as indicated in the Nursing Home Patients' Bill of Rights. This program is a result of legislation passed by the 1977 General Assembly. In passing this legislation it was the intent that each community in the State should take a more active role in promoting the interest and well being of persons residing in nursing homes. Each county in North Carolina

that has a nursing home is now served by a Nursing Home Community Advisory Committee.

The following statistics are available regarding the Nursing Home Community Advisory Committee's activities for 1979:

Complaints Received and Taken Care of Locally-----	305
Complaints Referred to Division of Facility Services-----	20
Educational Efforts-----	61
Community Involvement Efforts-----	67
Requests for information from Committees-----	125

The most common complaints continue to be in the same general categories such as food, feeding, odor, general lack of cleanliness, patients' needs not being met promptly, and insufficient or inadequate equipment. Many committee members feel that staffing patterns, while meeting licensure requirements, are inadequate in providing quality care.

Activities leading toward community involvement and education are as varied as the individuals making up the Nursing Home Community Advisory Committees. Committees worked to help the nursing homes in their community by using their particular talents and resources in an amazing number of ways. One committee was responsible for planting over 700 trees on the grounds of one nursing home. Transportation problems of one nursing home were handled

successfully by the interaction of the committee and the local transportation service. Much needed licensed practical nurses were located, also a barber and a beautician, and efforts were made to locate male orderlies. Volunteers were recruited by the committee members to work regularly in the homes, including high school students. The committees also provided substantial information to the public and interested citizens on nursing home facilities in the counties.

3. The Committee believes that progress is beginning to be made in instituting gerontology training for health professionals in North Carolina. The School of Medicine, University of North Carolina at Chapel Hill is developing a program on aging supported by funds from the 1979 General Assembly. The School of Public Health, University of North Carolina at Chapel Hill is also initiating a program supported by federal funds. Nursing groups are exploring ways to fulfill their role in geriatrics.

Expansion of services to older persons cannot bring about better health care unless there is increased geriatric training. Good training programs must be an integral part of our health care system if we are to provide

quality care - both treatment and prevention - to the elderly.

4. The Committee on Aging has had a high interest and has aggressively supported the development and initiation of in-home services for the elderly as an alternative to institutionalization. At the urging of the Committee the 1979 General Assembly appropriated approximately \$12 million for the biennium for these services. The first year's appropriation was allocated in the following manner: \$200,000 to the Division of Aging, \$1,445,097 to the Division of Health Services and \$4,365,294 to the Division of Social Services.

The Committee has closely monitored the use of these funds. Although a full report by the Department of Human Resources has not been made available, it seems that the money to the Division of Health Services has been allocated in an appropriate manner and there will be some expansion of services. The largest share, to the Division of Social Services is another question. The block of money allocated to the Division of Social Services was tied to Title XX funds. Because of the loss of at least \$5 million in

regular Title XX funds, the State appropriation will be used to supplant anticipated but unreceived federal Title XX funds. Therefore there will be little expansion of in-home services provided through the Division of Social Services. The most positive statement that can be made is that services in North Carolina will remain at approximately the same level while services in most other states will be cut. After a series of hearings involving Department of Human Resources officials the Committee expresses amazement and concern about the slow and ineffectual processes developed by the Department for the use and distribution of the monies so generously provided by the General Assembly in a year where there was very little new State monies for other programs. Monies for local departments of social services were held up for almost six months while the Department developed and approved the allocation system. The Committee will continue to closely monitor this program from now until the 1981 session.

RECOMMENDATIONS

The following are a compilation of those issues which need

immediate attention by the 1979 General Assembly (Second Session):

1. REQUIRE BY AN ACT OF THE GENERAL ASSEMBLY THAT PERSONS SIXTY-FIVE OR OLDER MAY BE EXEMPTED FROM JURY DUTY.

(See Appendix E).

Under present state statute G.S. 9-6(b), each chief district court judge establishes rules for excuses from jury duty. The Committee surveyed each district court to determine present policies. Of the 33 district court judges, 32 responded to the survey. The results are tabulated below and show the current range of possibilities for obtaining exemption from jury duty:

(a) Mail, telephone or personal appearance	24
(b) Mail or personal appearance	2
(c) Mail or personal appearance - telephone allowed but discouraged	2
(d) Mail, personal appearance, or appearance by another	1
(e) Personal appearance preferred, mail or telephone allowed but discouraged	2
(f) Personal appearance required	1

As an extreme example in one district persons must appear so they can tell the court that they are not physically able to serve. The Committee feels that this is a hardship

on many of the elderly. The Committee also believes that there should be a uniform exemption policy throughout the State and this uniform policy should allow exemption solely on account of age. This exemption ought to be established without appearing in person by filing a signed statement with the clerk of superior court. All summons issued within the State should inform the prospective juror that persons sixty-five years of age or older are entitled to exemption from jury service. This form should contain a space on which the person claiming the exemption may sign and return to the clerk of superior court thereby simplifying the procedure:

2. THE GENERAL ASSEMBLY SHOULD BY ACT AUTHORIZE COUNTIES TO CONTRACT WITH THIRD PARTIES FOR SENIOR CITIZENS PROGRAMS, SPECIFICALLY IN THE AREAS OF IN-HOME SERVICES, FOOD SERVICES, COUNSELING, RECREATION, AND TRANSPORTATION, AS WELL AS PROVIDING GENERAL AUTHORITY FOR THE DEPARTMENT OF HUMAN RESOURCES TO CONTRACT AND FOR COUNTIES TO CONTRACT IN THE AREAS OF HEALTH AND SOCIAL SERVICES (See Appendix G)

In the case of Hughey v. Cloninger, 297 N.C. 86 (1979), the

North Carolina Supreme Court stated that before a unit of local government may provide a service by third party contract (as opposed to directly providing the service), there must be statutory authority from the General Assembly.

There has been longstanding authority for counties to provide human services to senior citizens. The 1977 General Assembly extended that authority to cities (Chapter 187, Session Laws of 1977). Later that same year, the General Assembly gave authority for cities to contract with private corporations to provide the services (Chapter 647, Session Laws of 1977).

County authority for third party contracting for senior citizen programs is unclear. The 1978 General Assembly gave counties the authority to enter into third party contracts for in-home services (Chapter 1184, Session Laws of 1979, Second Session 1980). Many counties have found implied authority for other contracts, but the authority is unclear.

In addition, there is also confusion about the authority of the Department of Human Resources to contract with third parties, and also serious doubts about the ability of the counties to contract with third parties in the areas of health and social services. The General Assembly has clearly granted authority

for third party contract in the mental health area with the passage of G.S. 122-35.49 (Chapter 568, Session Laws of 1977), so no new legislation is needed in that area.

Although the attached bill goes beyond just covering senior citizen problems, the committee, the Attorney General, legislative staff, the Department of Human Resources, and the counties felt that a broader solution is necessary at this time.

The bill in Appendix G clearly gives authority for counties to contract with third parties for senior citizens in the areas of in-home services, food services, counseling, recreation, and transportation, and to contract generally with third parties in the areas of health and social services. The Department of Human Resources may also contract with third parties to carry out its duties and responsibilities to provide services.

The bill is retroactive to April 20, 1979, the date the Supreme Court released its opinion. The court did not hold a county liable for an unauthorized appropriation because it was made in good faith. This puts in doubt appropriations made since that date. Selecting the April 20 retroactive date will ratify any contracts in this area made since the Supreme

Court decision.

The bill is not intended to change the relationship between the state, the counties, and local boards of health, social services, and area mental health authorities. The wording that the expenditure must not be otherwise prohibited by law also means that procedures for the provision of services, the agency specified by statute to provide the service, and budgetary procedures, are not changed by the bill.

3. PROVIDE BY AN ACT OF THE GENERAL ASSEMBLY, LIMITED IMMUNITY TO CERTAIN PERSONS REGARDING DONATED FOOD MADE TO NON PROFIT ORGANIZATIONS.

It was recently reported to Congress that 20% of the food produced in the United States is discarded or wasted. This includes mislabeled cans and packages, test market products, underweight cans, bottles and packages. These items that cannot be sold are normally disposed of by the manufacturer. These facts were brought to the attention of the Committee on Aging by various State religious leaders who suggested that there was a way to put some of this food to a use to help feed some of the hungry in this State. The 1976 Federal Tax Reform Act provides a tax incentive to food donors

which allows a corporation to deduct not only the cost of the product but one-half of the realized profit that would have been made. To take advantage of the provisions of this Act the corporation must donate the food to a food distribution center where it is made available to the needy, the ill, infirm, infants, and the poor.

The provisions of the Tax Act have fostered the establishment of "food banks" in more than fifteen other states. The "food bank" distributes this type of food where it is needed. The only barrier to the establishment of such a program in North Carolina is the lack of a good Samaritan law (See Appendix H). The Committee recommends that such a law be passed which would allow limited immunity to donors of such foodstuffs. The "food bank" would not be relieved of liability and would assure that the product is in good condition. When it is given to the individual the "food bank" would guarantee to the donor that the food will not re-enter the market place.

It seems to the Committee that in these times of shrinking tax dollars and rising inflation that this is a way to help a large number of North Carolina citizens with no expenditure of public funds. Individuals as well as social service

agencies could draw on this supply of food provided they meet the criteria of non profit or qualified users.

APPENDICES

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1979
RATIFIED BILL

RESOLUTION 62

HOUSE JOINT RESOLUTION 68

A JOINT RESOLUTION TO PERMIT THE CONTINUANCE OF THE WORK OF THE LEGISLATIVE RESEARCH COMMISSION'S STUDY ON THE PROBLEMS OF AGING AS BEGUN UNDER RESOLUTION 86 OF THE 1977 SESSION (1st Session 1977) AS AMENDED BY RESOLUTION 106 OF THE 1977 SESSION (2nd Session 1978).

Whereas, the aging population in North Carolina presently constitutes over fourteen percent (14%) of the total population and is increasing three times faster than the State population as a whole; and

Whereas, continued inflation, rising taxes, increasing costs of medical care, inadequate institutional care facilities, insufficient pension income, forced early retirement, and lack of public awareness, have compounded the problems of the elderly; and

Whereas, because these older citizens have contributed magnificently to the progress and general well-being of our State and nation, and it is our concern and desire that their retirement years be a time of fulfillment rather than frustration; and

Whereas, the Legislative Research Commission Study Committee on the Problems of Aging Authorized by Resolution 86 of the 1977 Session, having made two reports, recommends that aging needs be given additional study time;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Legislative Research Commission, as structured by G.S. 120-30.10 et seq., may continue the study of the entire range of problems and needs of the elder adults of this State and to make specific recommendations to the General Assembly on how these problems can be satisfactorily solved and met by legislative action which is deemed necessary and appropriate. In its deliberations, the commission may examine national trends and programs in other states as well as programs and priorities in North Carolina. For purposes of this study, "older adult" is defined as every person who is 60 years of age or older.

Sec. 2. The membership of the Committee on Aging of the Legislative Research Commission shall consist of ten members to be appointed as follows: three senators appointed by the President Pro Tempore, three representatives appointed by the Speaker, two persons of sixty years of age or older appointed by the President Pro Tempore, and two persons of 60 years of age or older appointed by the Speaker. The Commission may report to the 1981 General Assembly and may submit an interim report to the 1979 General Assembly.

APPENDIX B

PERSONS AND GROUPS APPEARING BEFORE THE LRC'S COMMITTEE ON AGING

- Mr. Nathan Yelton, Assistant Secretary for Aging,
Department of Human Resources
- Ms. Julie Searing, Division of Aging, Department of Human Resources
- Ms. Mary Bethel, Division of Aging, Department of Human Resources
- Mr. Gene Barrett, Director, Division of Budget and Analysis,
Department of Human Resources
- Mr. John Tanner, Division of Social Services, Department of Human
Resources
- Mr. Russell E. Tranbarger, President, N. C. Nurses Association
- Ms. Elizabeth Boyer, Chairman, N. C. Nurses Association-Division
on Gerontological Nursing Practices
- Ms. Ellie McConnell, Clinical Specialist and Registered Nurse
- Dr. Virginia Stone, N. C. Nurses Association
- Senator James Edwards, N. C. Podiatry Society
- Dr. William Cromartie, School of Medicine, University of North
Carolina, Chapel Hill, N. C.
- Dr. Stuart Bondurant, School of Medicine, University of North
Carolina, Chapel Hill, N. C.
- Mr. James Gibson, Director, Energy Division, Department of Commerce
- Mr. John Edwards, Director, State Economic Opportunity Office,
Natural Resources and Community Development
- Ms. Helene Robertson, Wake County Council on Aging
- Mr. Sam Reade, The Round Table of Senior Citizens in Durham County
- Dr. Dan Blazer, Duke Center for Aging
- Mr. James Wight, Director, Wake County Department of Social Services
- Mr. Rankin Whittington, Director, Anson County Department of Social
Services
- Mr. Carl Brittain, Director, Surry County Department of Social Services
- Mr. E. C. Modlin, Director, Cumberland County Department of Social
Services

APPENDIX B
(Continued)

PERSONS AND GROUPS APPEARING BEFORE THE LRC'S COMMITTEE ON AGING

- Ms. Candice Buchanan, Smoky Mountain Area Mental Health Center,
Haywood County
- Ms. Vera Gibbs, Director, Comprehensive Outreach Program for the
Elderly and Emotionally Disturbed
- Mr. Larry Thompson, Area Director, COPE, Blue Ridge Area Program
- Ms. Mary Todd, Division of Mental Health, Department of Human Resources
- Dr. Larry Blake, President, N. C. Community College System
- Dr. Vercie M. Eller, Assistant Director of Health Programs, N. C.
Community College System
- Dr. Bernard Greenberg, Dean, School of Public Health, University of
North Carolina, Chapel Hill, N. C.
- Mr. Ted Williams, Director, Department of Aging, Baptist State
Convention

STATE OF NORTH CAROLINA
LEGISLATIVE RESEARCH COMMISSION
STATE LEGISLATIVE BUILDING
RALEIGH 27611



A RESOLUTION FOR USE OF WOOD CUT DURING PUBLIC WORKS PROJECTS.

WHEREAS, many state and federal projects involve clearing of woodlands; and

WHEREAS, in most cases the wood is currently being burned on the site of the project; and

WHEREAS, wood is also important as a heating fuel, especially for citizens in rural areas, many of whom are hit hard by inflation; and

WHEREAS, wood is often hard for such persons to obtain, especially senior citizens;

Now, therefore, be it resolved by the Committee on Aging that:

Section 1. This Committee asks the Governor to insure when woodlands are cleared for any state or federal project, that excess wood be made available first as a heating fuel for the citizens of the State. Such program must make the wood accessible and easily available so the program is workable.

Sec. 2. In addition, when the Department of Natural Resources and Community Development issues permits for open burning of wood, it should notify interested groups and encourage the applicant to make wood available for fuel.

Sec. 3. A copy of this Resolution shall be sent to the Governor.

For the Legislative Research Commission's Committee on Aging.

Rachel G. Gray
Senator Rachel G. Gray
Co-Chairman

Ernest B. Messer
Representative Ernest B. Messer
Co-Chairman

APPENDIX D
STATE OF NORTH CAROLINA
LEGISLATIVE RESEARCH COMMISSION
STATE LEGISLATIVE BUILDING
RALEIGH 27611



A RESOLUTION CONCERNING FUEL ASSISTANCE FOR THE POOR.

WHEREAS, rising prices for energy, especially for fuel oil, will make many persons choose between heat and food this winter; and

WHEREAS, the elderly poor are especially hard hit by inflation; and

WHEREAS, the Congress is considering several bills to help subsidize heating bills of poor persons this winter, and reduce energy use; and

WHEREAS, the winter season has already begun while the details are still being debated;

Now, therefore, be it resolved by the Legislative Research Commission's Committee on Aging that:

Section 1. The Congress is urged to take immediate action on appropriations bills to give subsidies to heating bills of the poor.

Sec. 2. The Governor is urged to take action to identify State funds which may be available.

Sec. 3. This Resolution shall be sent to each of the 11 members of the U. S. House of Representatives and the two U. S. Senators from North Carolina, and to the Governor.

For the Legislative Research Commission's Committee on Aging.

Rachel G. Gray
Senator Rachel G. Gray
Co-Chairman

Ernest B. Messer
Representative Ernest B. Messer
Co-Chairman



STATE OF NORTH CAROLINA
DEPARTMENT OF HUMAN RESOURCES
DIVISION OF SOCIAL SERVICES
325 N. SALISBURY STREET/RALEIGH 27611

ROBERT H. WARD
DIRECTOR

JAMES B. HUNT, JR.
GOVERNOR
AM T. MORROW, M.D., M.P.H.
SECRETARY
DEPT. HUMAN RESOURCES

IN REPLY REFER TO CODE PF15

January 16, 1980

MEMORANDUM

To: Representative Ernest Messer, Chairman
Committee on Aging

From: John T. Fanner, Head
Individual & Family Support Services

Re: DSS Survey on House Bill 66

At your request in December, 1979, we surveyed the 100 county departments of social services to obtain information about their use of House Bill 66. Ninety-one county departments responded to the survey. Of this number, four departments have implemented a fee for service policy for people ineligible under state and federal programs. The four are:

Clay	(effective July, 1979)
Cleveland	(effective June, 1979)
Forsyth	(effective October, 1979)
Surry	(effective 1977)

They are providing ineligibles with the following services and charging a fee: Preparation and Delivery of Meals, Personal and Family Counseling, Day Care for Children. Each county has developed a fee for the service it is providing. The fees vary according to the service provided. Cleveland County, for example, is charging \$1.63 per meal under the Meals Service and Forsyth County is charging between \$3.50 and \$15.50 per hour for Personal and Family Counseling. To date Clay County has collected a total of \$34 in fees from ineligibles; Cleveland has collected \$345; Forsyth has collected \$719; and Surry has collected \$1,060. They are using the fee collections in various ways. Clay and Surry report they use the fees to offset the cost of the day care service for the ineligible children. Cleveland uses the fees to cover the cost of the meals for the ineligible clients. Forsyth reported that the fees reverted to the county's general fund and the department could not plan for use of the funds.

These four counties reported that provision of services to ineligible people for a fee improves the department's image in the community and that the recipients are glad the services are available to them through the department. One county reported that people compare their counseling fees with private agencies and the local mental health agency and feel they are getting a bargain. They also reported that the

recipients have more commitment, keep appointments better and are generally more involved when they pay even a small fee.

Fifteen counties indicated that they plan to implement fees for services for ineligibles soon. One county stated it would be doing this in January, 1980, another stated May, 1980, and 13 stated it would be in FY 80-81. They plan to provide the following services to ineligibles for fees: Chore Services, Homemaker Services, Preparation and Delivery of Meals, Transportation, Personal and Family Counseling and Adult Foster Care

Seventy-two county departments stated they did not plan to implement fees for services for ineligibles at this time. Reasons they gave for not doing so were:

1. They have not had many requests for services from people who are ineligible and who want to pay a fee.
2. They do not feel the amount of fees that would be collected would justify the time spent to implement and do not feel the fees would cover the cost of providing the services. They expect to have to hire additional staff to provide services to ineligibles since they are unable to meet the demand for eligible people with existing staff. The county would have to frontload the cost of the services and would not know whether the fees collected would cover the costs. County funds might have to be used to subsidize costs not covered by fees.

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FOR REVIEW ONLY

A BILL TO BE ENTITLED
AN ACT TO MAKE JURY SERVICE OPTIONAL FOR PERSONS SIXTY-FIVE
YEARS OF AGE OR OLDER.

The General Assembly of North Carolina enacts:

Section 1. G.S. 9-6(a) is amended by adding the following new language before the period: ", or as provided in G.S. 9-6.1".

Sec. 2. Chapter 9 of the General Statutes is amended by adding a new section to read:

"§9-6.1. Excuses on account of age. (a) The General Assembly finds that advanced age often restricts the ability of a person to discharge the responsibility of jury service, and that the decision should be made by such person.

(b) Any person who has reached the age of sixty-five shall be entitled to exemption from jury service.

(c) Any person summoned as a juror who is exempted from service by subsection (b) of this section may establish his exemption without appearing in person by filing a signed statement of the ground of his exemption with the clerk of superior court at any time before the date upon which he is summoned to appear. In the case of supplemental jurors summoned under G.S. 9-11, such notice may be given when summoned.

(d) In addition, any person exempt under subsection (b) of this section may file a sworn statement with the clerk of superior court in the county of the person's residence. At the first meeting of the jury commission under G.S. 9-1 for each biennium, the clerk of superior court shall present to the jury commission all such statements received since the previous preparation of the jury list in which event the jury commission shall not place such person on the jury list for the next biennium."

Sec. 3. Existing G.S. 9-10 is redesignated as G.S. 9-10(a) and a new subsection is added to read:

"(b) All summons served personally or by mail under this section or under G.S. 9-11 shall inform the prospective juror that persons sixty-five years of age or older are entitled to exemption from jury service, shall contain a statement for claiming such exemption and a place for the prospective jurors signature, and shall state the mailing address of the clerk of superior court and the date by which such request for exemption must be received."

Sec. 4. This act shall become effective October 1, 1980.

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A BILL TO BE ENTITLED

AN ACT TO PROVIDE SPECIFIC AUTHORITY TO THE DEPARTMENT OF HUMAN RESOURCES TO CONTRACT WITH THIRD PARTIES, AND COUNTIES TO CONTRACT FOR HEALTH, SOCIAL SERVICES AND SENIOR CITIZEN SERVICES, AS RECOMMENDED BY THE LEGISLATIVE RESEARCH COMMISSION'S COMMITTEE ON AGING.

Whereas, the North Carolina Supreme Court on April 20, 1979 in the case of Hughey v. Cloninger has required statutory authority for third party contracts; Now, therefore, The General Assembly of North Carolina enacts:

Section 1. Chapter 143B of the General Statutes is amended by adding a new section to read:

"§143B-139.3. Department of Human Resources authorized to contract with other entities. The Department of Human Resources is authorized to contract with any governmental agency, person, association, or corporation for the accomplishment of its duties and responsibilities provided that the expenditure of funds pursuant to such contracts shall be for the purposes for which the funds were appropriated and is not otherwise prohibited by law."

Sec. 2. Article 13 of Chapter 153A of the General Statutes is amended by adding a new part to read:

"Part 3. Health and Social Services Contracts

§153A-259. Counties authorized to contract with other entities for health and social services. A county is authorized to contract with any governmental agency, person, association,

or corporation for the provision of health of social services provided that the expenditure of funds pursuant to such contracts shall be for the purpose for which the funds were appropriated and is not otherwise prohibited by law."

Sec. 3. G.S. 153A-445 is amended by adding a new subdivision to read:

"(6) G.S. 160A-497. - Senior citizens programs."

Sec. 4. G.S. 160A-497 is amended in the first, third, and fourth sentences by deleting the word "city" and inserting in lieu thereof the words "city or county".

Sec. 5. G.S. 160A-497 is amended in the second sentence by deleting the words "city council" and inserting in lieu thereof the words "city council or county".

Sec. 6. This act is effective from and after April 20, 1979.

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A BILL TO BE ENTITLED

AN ACT TO PROVIDE CIVIL AND CRIMINAL IMMUNITY FOR CERTAIN PERSONS DONATING FOOD TO NONPROFIT ORGANIZATIONS, AND TO AUTHORIZE INFORMATION, REFERRAL, AND INSPECTION SERVICES FOR FOOD BANKS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 99B of the General Statutes is amended by adding a new section to read:

"§99B-10. Immunity for donated food.--(a) Notwithstanding the provisions of Article 12 of Chapter 106 of the General Statutes, or any other provision of law, any person, including but not limited to a seller, farmer, processor, distributor, wholesaler or retailer of food, who donates an item of food for use or distribution by a nonprofit organization or nonprofit corporation shall not be liable for civil damages or criminal penalties resulting from the nature, age, condition, or packaging of the donated food, unless it is established that the conduct of the donor was grossly negligent, wanton, or constituted intentional wrongdoing.

(b) Nothing in this section limits the liability of the donee organization or corporation accepting the food."

Sec. 2. Chapter 106 of the General Statutes is amended by adding a new section to read:

"§106-21.2. Food Bank information and referral service.--The Department of Agriculture may maintain an information and

referral service for persons and organizations that have notified the department of their desire to donate food to a nonprofit organization or a nonprofit corporation."

Sec. 3. Chapter 106 of the General Statutes is amended by adding a new section to read:

"§106-141.1. Inspections of donated food.--(a) The Department of Agriculture is authorized to inspect for wholesomeness food items donated for use or distribution by nonprofit organizations or nonprofit corporations, and may establish procedures for the handling of the food items.

(b) Nothing in this section shall limit the duties or responsibilities of the Commission for Health Services or the local boards of health."

Sec. 4. This act shall become effective October 1, 1980.

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